IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.5695 OF 2005

Mumbai Agricultural Produce Market Committee. ...Petitioner.
Vs.
The State of Maharashtra & Ors. ...Respondents.
....
Mr. C.J. Sawant, Sr.Advocate with Mr.N. N. Bhadrashete for the Petitioner.
Mr. C. R. Sonawane, AGP for Respondent No.1.
Mr. R.A. Dada, Sr. Advocate with Mrs. M. P. S. Rao and Mr. R.L. Shetia for Respondent No.3.
.....

CORAM : F.I REBELLO AND
DR.D.Y.CHANDRACHUD, JJ.

September 27, 2005.

P.C.

Rule. Heard forthwith.

2. The principal contention as urged on behalf of the Petitioner herein is that there is only one appeal provided under Section 52-B of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 and that the appeal entertained by the State Government against the order dated 21st April 2005 of the Marketing Director is without jurisdiction.

3. Section 52-B(1)(a) provides an appeal, where order is

passed or decision taken by the Market Committee, its Chairman, Vice-Chairman, Secretary or any other officer empowered to exercise the powers of the Director, to the Director and where in terms of Section 52-B(1)(b) a decision is taken by the Director to the State Government. In other words, the maintainability of the appeal, depends upon the exercise of the jurisdiction by the authorities as specified in either Section 52-B(1)(a) or 52-B(1)(b). Sub-section (3) of Section 52-B makes it clear that the order passed in the appeal by the Director or the State Government, as the case may be, shall be final. It thus be clear that the joint reading of sub-section (1) and sub-section (3) of Section 52-B is that only one appeal is maintainable and that no second appeal lies from the decision of the State Government where the Director has heard the appeal under Section 52-B(1)(b). In the instant case, the appeal was disposed of by the Director. Once that be the case, that order becomes final in terms of Section 52-B and no appeal lies to the State Government. Considering that, the impugned order dated 14th July 2005 is set aside and consequential order dated 21st April 2005 is restored. It would be open to Respondent No.3 if aggrieved, to challenge the order dated 21st April 2005 before this Court under its extra ordinary jurisdiction. On behalf of

the Petitioner, the Learned Counsel states that for a period of four weeks from today, they will not take any steps to enforce the order. Statement accepted.

4. On behalf of Respondent No.3, the Learned Counsel drawn our attention to the order of this Court dated 26th April 2005 in Writ Petition No.1155 of 2005 where the Petition preferred was withdrawn considering the availability of the appeal. It is pointed out that in that case also, the appeal has been disposed of by the Director and against that Writ Petition has been preferred. It appears that the attention of the Learned Bench was not invited to Section 52-B(1)(a) and (b) read with sub-section (3).

5. With the above observations, rule is made absolute. No order as to costs.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)